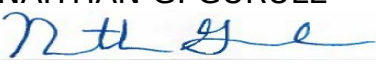
	LOS LUNAS POLICE DEPARTMENT	
	ADMINISTRATION	NUMBER: ADM.36.01
	EFFECTIVE DATE: April 5, 2017	
	SUBJECT: Citizen Observation/Recording of Officers	
AMENDS/ SUPERSEDES:		REVIEW DATE: April 5, 2017
NMMLEPSC STANDARDS:		NMSA:
		APPROVED BY CHIEF OF POLICE NAITHAN G. GURULE  Signature

POLICY

1. **Citizen's Right to Observe.** It is the policy of the Los Lunas Police Department (LLPD) that people not involved in an incident may be allowed to remain in proximity of any stop, detention or arrest, or any other incident occurring in public so long as their presence is lawful and their activities, including verbal comments, do not obstruct, hinder, delay, or threaten the safety of another or compromise the outcome of legitimate police actions and/or rescue efforts. Officers should assume that a member of the general public is observing and possibly recording, their activities at all times.
2. **Citizen's Right to Record.** Members may not prevent or prohibit any person's ability to peaceably observe, photograph or otherwise record police officers, police activity that occurs in public, or individuals who are the subject of police action (ie. Investigative stop or an arrest) (collectively "police activity"), when the person recording otherwise has the right to be there, does not interfere with a member's safety, and does not obstruct, hinder, delay, or threaten the safety of another or compromise the outcome of legitimate police actions and/or rescue efforts.
 - 2.1 If these conditions are met, members shall not:
 - 2.1.1 Tell the individual taking the photograph/recording that the person's actions are not allowed, require a permit, or require a member's consent;
 - 2.1.2 Order that person to cease such activity;
 - 2.1.3 Demand that person's identification;

- 2.1.4 Demand that the person states a reason why he/she is taking photographs/recordings;
- 2.1.5 Detain that person;
- 2.1.6 Intentionally block or obstruct cameras/recording devices;
- 2.1.7 Demand to review or erase any image or recording; or
- 2.1.8 In any way threaten, intimidate, or otherwise discourage an individual from recording a member's enforcement activities.
- 2.2 Public settings where individuals may record police activity include parks, sidewalks, streets, and locations of public protest. Individuals may also record police activity in their home or business, common areas of public and private facilities and buildings, and any other public or private facility at which the individual has a legal right to be present.
- 2.3 A person may record his/her own interaction with police officers.
- 2.4 Citizens, regardless of their intent to video and/or audio record any police activity, may not enter any established marked and protected crime scene or a restricted area that would normally be unavailable to the general public. Officers and follow-up investigators will determine who enters or leaves a secure scene.
- 2.5 The public does not have a right to interfere with police activity. If a person is photographing/recording police activity from a position that impedes or interferes with the safety of members or their ability to perform their duties, a member may direct the person to move to a position that will not interfere. However, a member shall not order the person to stop photographing or recording.
 - 2.5.1 Interference consists of conduct, threats, actions or activities that prevent or hinder, or purport to prevent or hinder, members from doing their job.
 - 2.5.2 Observing or recording police activity, alone, does not constitute interference.
 - 2.5.3 People may express criticism of police activity they observe and/or record. Expressing criticism of the police activity

being observed is not interference so long as that expression does not jeopardize the safety of any member, suspect, or bystander; and so long as that expression does not violate the law or incite others to violate the law.

3. Taking photographs or recording from a place where a person has a right to be does not constitute suspicious conduct. Photographing and recording are common and lawful activities.
 - 3.1 Members may ask questions during the course of a contact, but there is no justification for members ordering a person to stop or requiring that they answer unless the member reasonably suspects that a person has committed, is committing, or is about to commit any crime.
4. Members may not request or seize an individual's camera or recording device for the purpose of deleting, destroying, or otherwise concealing information, which they believe may portray individual LLPD members or the LLPD in a negative light. Concerns of this nature do not provide a basis to request or seize cameras or recording devices.
 - 4.1 Members may not seize the recording or recording device, unless sufficient exigent circumstances exist to justify a warrantless seizure. Members must evaluate the sufficiency of exigent circumstances as they would for any other type of evidence.
5. In areas open to the public, members shall allow all persons the same access for photography and recording as is given to the news media, as long as the person has a legal right to be present where he/she is located.
6. Although contact with individuals to obtain evidence is encouraged, members will not detain citizens or seize their recorded media when that media contains video, still images, or sounds associated with a crime.
 - 6.1 Exercise due care and caution with any of the individual's property or electronic device(s).
 - 6.2 Consent to take possession of a camera or recording device must be given voluntarily, without coercion or threats. A member shall not, implicitly or explicitly, coerce consent to take possession of any recording device or any information thereon.
 - 6.3 If the person voluntarily provides the camera or recording device to the member, the member shall:

- 6.3.1 Exercise due care and caution with any of the individual's property or electronic device(s);
 - 6.3.2 Complete a Property Receipt;
 - 6.3.3 Provide the individual with the name and contact information of the officer who took custody of the individual's property;
 - 6.3.4 List the evidence recovered in the Property section of applicable field report(s);
 - 6.3.5 Document his/her request, and the individual's response, in the narrative of applicable field reports and/or charging documents;
 - 6.3.6 Do not make any attempt to view, download, or otherwise access any material contained on the device.
- 6.4 If the person declines to voluntarily provide the camera or recording device, or to electronically transmit the sound and/or images where possible and practicable, and there is probable cause to believe that the evidence is in immediate jeopardy of being tampered with, altered, deleted, or destroyed, you may temporarily seize the device for safekeeping/preservation of the evidence while the appropriate application(s) for search and seizure warrants are made.
- 6.4.1 Do not make any attempt to view, download, or otherwise access any material contained on the device;
 - 6.4.2 Apply for, execute, and return and Search and Seizure Warrant(s) in accordance with ADM.02.03 (Search and Seizure);
 - 6.4.3 Submit the recovered camera, video recording device, etc., in accordance with ADM.17.01 (Property and Evidence Control);
 - 6.4.4 Complete all appropriate filed reports.
- 6.5 Members shall maintain cameras and other recording devices that are in LLPD custody so that they can be returned to the owner intact with all images or recordings undisturbed.
- 6.6 Only members of the Computer Crimes Unit may make efforts to

access material contained on the device.

7. Members shall not, under any circumstances, erase or delete, instruct or require any other person to erase or delete any recording images or sounds from any camera or other recording device that is in the possession of a non-member, or that has been voluntarily turned over or seized under the terms of this policy.

PERMANENT - RANK SUPERVISORS/OIC

1. Ensure that any camera or video recording device that has been used to photograph and/or video record police activity that comes into the custody of the LLPD, has only come into custody in the following circumstances:
 - 1.1 Through the voluntary consent of the individual in possession of the item.
 - 1.2 Through execution of a search and seizure warrant.
 - 1.3 Through some valid exception to the warrant requirement.

DUTY DETECTIVE, COMPUTER CRIMES UNIT

1. Provide guidance and assistance to members on those occasions when an application for a Search and Seizure Warrant is made for a camera, video recording device, etc.
 - 1.1 Specific attention should be given to helping those members properly define or describe the various data formats and storage devices they may be seeking in the warrant application.
 - 1.2 Make any appropriate recommendations that may assist in the preservation of data, photographs, video "clips", etc.
2. In the course of a criminal investigation, and/or at the request of a member of the LLPD, access and download evidentiary materials contained on a device in the member's custody.